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021628Z May 06

UNCLAS SECTION 01 OF 04 PARIS 002868

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FROM USOECD PARIS

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E.O 12958:N/A

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SUBJECT: CHINA AND TAIWAN AT THE OECD: HARDBALL OVER SOFT LAW

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1.(SBU) SUMMARY: CHINA AND THE TAIWAN AUTHORITIES ARE ENGAGED IN A BACK-CORRIDOR BATTLE AT THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) OVER PARTICIPATION, AS NONMEMBERS, IN OECD COMMITTEES. CHINA HAS RECENTLY RAISED THE LEVEL AND TENOR OF ITS OBJECTIONS TO TAIWAN'S PARTICIPATION, THOUGH IT IS NOT CLEAR WHETHER CHINA WILL CURTAIL ITS EXTENSIVE COOPERATIVE PROGRAM WITH THE OECD IF THE OECD IGNORES THESE PROTESTATIONS. BOTH CHINA AND TAIWAN ARE MOVING TO INCREASE SIGNIFICANTLY THEIR PARTICIPATION IN COMMITTEES -- FOR WHICH STATEHOOD IS NOT A REQUIREMENT.

2. (SBU) ACTION REQUESTED (PARAS. 16-18): PLEASE PROVIDE GUIDANCE ON WHETHER TO OBJECT TO TAIWAN'S APPLICATIONS TO JOIN TWO OECD COMMITTEES, DUE FOR DECISION ON MAY 4. END SUMMARY.

CHINA: BACK TO THE FUTURE FOR TAIWAN?

3. (SBU) CHINA AND THE TAIWAN AUTHORITIES ARE ENGAGED IN A BACK-CORRIDOR BATTLE AT THE OECD OVER PARTICIPATION IN COMMITTEES AND OTHER OECD SUB-GROUPS (SUCH AS WORKING PARTIES AND WORKING GROUPS). IN THE PAST, CHINA ROUTINELY VOICED OBJECTION TO TAIWAN'S PARTICIPATION AS OBSERVER IN OECD COMMITTEES, BUT IN THE END ACQUIESCED IN OECD DECISIONS TO INVITE "CHINESE TAIPEI." TAIWAN IN FACT BECAME A REGULAR OBSERVER IN THE COMPETITION COMMITTEE (IN 2001) AND THE STEEL COMMITTEE (IN 2005). IN ADDITION, AND NOT RELATED TO PARTICIPATION IN THE STEEL COMMITTEE, CHINA AND TAIWAN HAVE BOTH PARTICIPATED IN HIGH-LEVEL STEEL TALKS, WHICH HAVE BEEN HELD SEVEN TIMES SINCE 2001. SIMILARLY, BOTH CHINA AND TAIWAN TOOK PART IN THE SPECIAL NEGOTIATING GROUP ON A NEW SHIP-BUILDING AGREEMENT.

4. (SBU) IN RECENT MONTHS, HOWEVER, IN APPARENT REACTION TO TAIWAN'S EXPRESSION OF INTEREST IN BECOMING A REGULAR OBSERVER TO SIX ADDITIONAL OECD COMMITTEES, CHINA HAS RAISED BOTH THE LEVEL AND THE TENOR OF ITS OBJECTIONS. IN JANUARY 2006, ZHAO JINJUN, CHINA'S AMBASSADOR TO FRANCE, STATED IN A LETTER TO OECD SECRETARY GENERAL JOHNSTON THAT CHINA NOT ONLY OBJECTED TO TAIWAN'S CURRENT APPLICATIONS TO JOIN NEW COMMITTEES, BUT ALSO TO ITS CONTINUED PARTICIPATION IN THE COMMITTEES TO WHICH IT HAD ALREADY BEEN ADMITTED. PREVIOUSLY, CHINA'S VIEWS ON TAIWAN'S PARTICIPATION HAD BEEN MADE BY LOWER LEVEL OFFICIALS IN THE CHINESE EMBASSY'S ECONOMIC SECTION. CHINESE OFFICIALS IN BEIJING, INCLUDING VICE MINISTER OF COMMERCE LIAO XIAOQI, REITERATED AMBASSADOR ZHAO'S COMMENTS DURING SECRETARY GENERAL JOHNSTON'S VISIT TO CHINA IN FEBRUARY 2006.

5. (SBU) IN THESE AND OTHER CONVERSATIONS WITH OECD OFFICIALS, BEIJING HAS ASSERTED THAT TAIWAN'S RECENT SPATE OF APPLICATIONS IS POLITICALLY MOTIVATED. THE OECD HAS RESPONDED THAT ITS COMMITTEES, IN MAKING A "TECHNICAL EVALUATION" OF APPLICATIONS FOR OBSERVERSHIPS OR OTHER FORMS OF PARTICIPATION, STEER AWAY FROM POLITICAL CONSIDERATIONS, BUT DO LOOK SERIOUSLY AT FACTORS SUCH AS "MUTUAL BENEFIT" AND WHETHER APPLICANTS ARE "MAJOR PLAYERS" IN THE SUBSTANTIVE AREA OF THE COMMITTEE'S JURISDICTION. THE OECD HAS ALSO NOTED THAT AS A MATTER OF PRINCIPLE, NONMEMBERS HAVE NO RIGHT OR STANDING TO COMMENT ON THE QUALIFICATIONS OF OTHER NONMEMBERS CONCERNING OECD ACTIVITIES. (NOTE: IN ACCORDANCE WITH A 1998 OECD COUNCIL DECISION, STATEHOOD IS NOT A REQUIREMENT FOR PARTICIPATION IN OECD COMMITTEES AND RELATED BODIES. HONG KONG, UNDER THE NAME OF "HONG KONG CHINA," IS AN OBSERVER TO THE COMMITTEE ON FINANCIAL MARKETS AND TO THE TRADE COMMITTEE, FOR EXAMPLE.)

GO SLOW ON INNOVATION.

6. (SBU) TO SHOW THAT IT IS SERIOUS ABOUT ITS OBJECTIONS, CHINA BRIEFLY HALTED ITS COOPERATION WITH AN ONGOING OECD

REPORT ON CHINA'S INNOVATION POLICY, TO BE DRAFTED UNDER THE AUSPICES OF THE OECD'S COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY (CSTP) -- A COMMITTEE WHICH SUPPORTED TAIWAN'S APPLICATION TO BE AN OBSERVER SEVERAL MONTHS AGO. THE NEXT STEP IN TAIWAN'S APPLICATION TO THE CSTP WILL BE APPROVAL (NORMALLY GRANTED ROUTINELY IN LIGHT OF THE SUBSTANTIVE COMMITTEE'S EARLIER APPROVAL) BY THE OECD'S COMMITTEE ON COOPERATION WITH NONMEMBERS AT ITS MEETING ON MAY 4. THE FINAL STEP WOULD BE APPROVAL BY THE OECD COUNCIL, LIKELY TO OCCUR LATER IN MAY.

17. (SBU) CHINA ITSELF BECAME AN OBSERVER TO THE CSTP IN 2001; IF "CHINESE TAIPEI" JOINED, THIS WOULD MARK THE FIRST TIME BOTH CHINA AND TAIWAN HAVE BEEN OBSERVERS ON THE SAME COMMITTEE. CURRENTLY, BOTH CHINA AND TAIWAN ALSO HAVE STATUS -- THOUGH NOT THE SAME STATUS -- IN THE STEEL COMMITTEE (SEE BELOW).

FORGE AHEAD ON STEEL.

18. (SBU) IN A NEW TWIST, THE OECD RECENTLY INVITED CHINA TO JOIN THE STEEL COMMITTEE AS A FULL PARTICIPANT (THE HIGHEST CATEGORY OF NONMEMBER PARTICIPATION) -- NOTWITHSTANDING CHINESE TAIPEI'S EXISTING STATUS AS AN OBSERVER. CHINA PREVIOUSLY HAD NO ENGAGEMENT WITH THE STEEL COMMITTEE, THOUGH, AS NOTED ABOVE, IT HAD PARTICIPATED IN THE HIGH LEVEL STEEL TALKS. NOW CHINA HAS LEAPFROGGED TO THE STATUS OF FULL PARTICIPANT, AND HAS DONE SO WITHOUT OBJECTING TO TAIWAN'S CONTINUING STATUS AS OBSERVER. ACCORDING TO OECD OFFICIALS, BOTH CHINA AND TAIWAN PLAN TO SEND REPRESENTATIVES TO THE NEXT STEEL COMMITTEE MEETING, TO BE HELD IN INDIA ON MAY 17. CHINA HAS RAISED NO SPECIFIC OBJECTION TO TAIWAN'S ATTENDANCE AT THIS UPCOMING STEEL COMMITTEE MEETING, NOTWITHSTANDING ITS GENERAL COMMENTS IN PARIS AND IN BEIJING TO SECRETARY GENERAL JOHNSTON OPPOSING TAIWAN'S PARTICIPATION IN COMMITTEES.

AND ON THE ENVIRONMENT, AND REGULATORY REFORM

19. (SBU) IN ADDITION, OECD-CHINA COOPERATION PROCEEDS ON THE OECD'S ENVIRONMENTAL POLICY REVIEW OF CHINA. THE OECD REVIEW TEAM, WITH MEMBER COUNTRY PARTICIPANTS, INCLUDING THE UNITED STATES, COMPLETED ITS "REVIEW MISSION" TO CHINA IN FEBRUARY. IN NOVEMBER, THE OECD PLANS TO HOLD A "PEER REVIEW MEETING" ON THE COMPLETED ENVIRONMENTAL REVIEW IN BEIJING. CHINA HAS ALSO RAISED NO OBJECTIONS TO AN ONGOING OECD REGULATORY REFORM REVIEW OF CHINA, IN COLLABORATION WITH THE NATIONAL DEVELOPMENT RESEARCH COMMISSION (NDRC) IN BEIJING.

CHINA AND THE OECD

110. (U) THE CHINA-OECD PROGRAM OF COOPERATION EXTENDS BACK OVER TEN YEARS. COMMERCE MINISTER BO XILAI'S VISIT TO THE OECD LAST YEAR WAS THE HIGHEST OFFICIAL LEVEL CONTACT IN PARIS, WHILE SECRETARY GENERAL JOHNSTON HAS MADE SEVERAL VISITS TO CHINA AND MET WITH VICE MINISTER-LEVEL OFFICIALS. THE OECD'S CHINA "COUNTRY PROGRAM" IS THE MOST ACTIVE OF ITS THREE COUNTRY PROGRAMS (CHINA, RUSSIA, BRAZIL) AND HAS PRODUCED A PLETHORA OF REPORTS ADVOCATING ECONOMIC REFORM MEASURES IN CHINA, INCLUDING COMPLIANCE WITH WTO OBLIGATIONS -- REPORTS THAT GENERALLY TRACK WELL WITH U.S. BILATERAL POLICIES AND INITIATIVES.

111. (U) IN ADDITION TO ITS STATUS AS OBSERVER IN THE OECD'S COMMITTEE ON FISCAL AFFAIRS AND THE COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY (CSTP), IN THE PAST YEAR, CHINA HAS BEEN INVITED TO BE AN OBSERVER TO THE EDUCATION COMMITTEE AND TO THE STATISTICS COMMITTEE, AND, AS NOTED, TO BE A FULL PARTICIPANT IN THE STEEL COMMITTEE. AS A MAJOR NONMEMBER ECONOMY, CHINA (AS IN PREVIOUS YEARS) HAS BEEN INVITED TO SEND A DELEGATION TO ATTEND PARTS OF THE OECD'S ANNUAL MINISTERIAL COUNCIL MEETING (MCM) ON MAY 23-24; AT PRESENT, VICE MINISTER OF FINANCE LOU JIWEI IS SCHEDULED TO LEAD CHINA'S DELEGATION. (CHINESE TAIPEI WAS NOT INVITED; OTHER INVITEES INCLUDE BRAZIL, INDIA, RUSSIA, AND SOUTH AFRICA; IN ADDITION, "HONG KONG CHINA," ARGENTINA, AND CHILE, ALL OF WHICH ARE REGULAR OBSERVERS IN THE TRADE COMMITTEE ARE AMONG NON-MEMBERS INVITED TO ATTEND THE MCM'S TRADE SESSION).

TAIWAN AND THE OECD

112. (U) IN ADDITION TO ITS STATUS AS OBSERVER IN THE COMPETITION AND STEEL COMMITTEES, CHINESE TAIPEI ALSO APPLIED TO BECOME A REGULAR OBSERVER TO THE TRADE COMMITTEE IN 2003. IN 2005 TAIWAN SIGNED ITS INTEREST IN OBSERVING SIX OTHER COMMITTEES: THE COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY (CSTP), THE FISHERIES COMMITTEE, THE INVESTMENT COMMITTEE, THE EMPLOYMENT, LABOR AND SOCIAL AFFAIRS COMMITTEE, AND TWO SUBGROUPS OF THE ENVIRONMENTAL POLICY COMMITTEE.

STATUS OF TAIWAN'S APPLICATIONS

113. (SBU) ON APRIL 27, THE OECD'S GOVERNING COUNCIL

ENDORSED THE TRADE COMMITTEE'S DECISION NOT TO APPROVE REQUESTS FROM CHINESE TAIPEI AND FOUR COUNTRIES TO BECOME OBSERVERS, BUT TO OFFER INSTEAD "AD HOC" INVITATIONS TO ATTEND VARIOUS COMMITTEE MEETINGS OR EVENTS. AS NOTED, ON MAY 4, THE OECD'S COMMITTEE ON COOPERATION WITH NONMEMBERS IS LIKELY TO ENDORSE TAIWAN'S MEMBERSHIP AS OBSERVER IN THE COMMITTEE ON SCIENCE AND TECHNOLOGY POLICY, WITH COUNCIL APPROVAL SOON THEREAFTER. SIMILARLY, AND ALSO ON MAY 4, THE COMMITTEE ON COOPERATION WITH NONMEMBERS WILL LIKELY ENDORSE THE FISHERIES COMMITTEE'S PREVIOUS EXPRESSION OF SUPPORT OF TAIWAN AS AN OBSERVER; THAT WOULD BE FOLLOWED SHORTLY BY THE COUNCIL'S FINAL APPROVAL. TAIWAN'S APPLICATIONS TO BECOME AN OBSERVER TO THE INVESTMENT COMMITTEE, THE EMPLOYMENT, LABOR AND SOCIAL AFFAIRS COMMITTEE, AND THE ENVIRONMENTAL POLICY COMMITTEE SUBGROUPS ARE STILL IN PRELIMINARY STAGES.

#### OECD ENLARGEMENT

14. (SBU) THE CHINA-TAIWAN IMBROGLIO TAKES PLACE IN THE CONTEXT OF A U.S.-LED MOVEMENT OVER THE PAST YEAR AIMED AT STREAMLINING THE OECD'S GOVERNANCE PROCEDURES, AS A PREREQUISITE FOR OECD ENLARGEMENT BEYOND ITS CURRENT MEMBERSHIP OF THIRTY COUNTRIES. THE OECD CONVENTION, SIGNED BY REPRESENTATIVES OF MEMBER GOVERNMENTS, AUTHORIZES ITS GOVERNING COUNCIL TO INVITE "GOVERNMENT(S)" TO JOIN THE ORGANIZATION AND THE CONVENTION (ARTICLE 16). THE OECD'S LEGAL ADVISOR HAS TOLD US INFORMALLY THAT THIS AND OTHER PROVISIONS WOULD PROHIBIT TAIWAN'S MEMBERSHIP IN THE OECD, ABSENT A CHANGE IN THE CONVENTION. NO OECD MEMBER HAS OFFICIAL RELATIONS WITH TAIWAN.

15. (SBU) WE WILL SEE IN THE COMING MONTHS HOW SERIOUS CHINA IS ABOUT ITS OBJECTIONS TO TAIWAN'S PARTICIPATION IN OECD NONMEMBER ACTIVITIES. AT PRESENT, IT APPEARS THAT THE REACTION, IF ANY, IS LIKELY TO BE LIMITED TO THOSE COMMITTEES WHERE BOTH CHINA AND TAIWAN ARE MEMBERS. THE UPCOMING STEEL COMMITTEE MEETING IN INDIA WILL BE A TEST CASE, AS WILL THE OECD'S LIKELY APPROVAL OF TAIWAN AS AN OBSERVER TO THE CSTP LATER THIS MONTH (SEE ACTION REQUEST).

#### ACTION REQUESTED

16. (SBU) MISSION REQUESTS GUIDANCE ON WHETHER TO OBJECT TO TAIWAN'S APPLICATION TO BE AN OBSERVER IN THE COMMITTEE ON SCIENTIFIC AND TECHNOLOGY POLICY (CSTP). THIS APPLICATION WILL BE APPROVED ROUTINELY BY THE OECD'S COMMITTEE ON COOPERATION WITH NONMEMBERS ON MAY 4 UNLESS ONE OR MORE MEMBER COUNTRIES OBJECT. THE CSTP, WITH UNITED STATES PARTICIPATION AND AGREEMENT, HAS ALREADY MADE A "TECHNICAL EVALUATION" AND CONCLUDED THAT TAIWAN IS WELL-QUALIFIED TO BE AN OBSERVER TO THE COMMITTEE. THAT APPROVAL OCCURRED IN 2005, PRIOR TO THE ESCALATION OF THIS MATTER BY AMBASSADOR ZHAO AND OTHER CHINESE OFFICIALS.

17. (SBU) WE ALSO REQUEST GUIDANCE ON WHETHER TO OBJECT TO TAIWAN'S MEMBERSHIP IN THE FISHERIES COMMITTEE. AS WITH THE CSTP, THE FISHERIES COMMITTEE HAS FOUND TAIWAN WELL-QUALIFIED TO BE AN OBSERVER. UNLIKE THE CSTP, HOWEVER, CHINA IS NOT NOW ENGAGED WITH THE FISHERIES COMMITTEE, NOR HAS IT INDICATED INTEREST IN OBSERVERSHIP. TAIWAN (AS "CHINESE TAIPEI") PARTICIPATED ENTHUSIASTICALLY IN THE 26-28 APRIL MEETING OF THE FISHERIES COMMITTEE AS AN AD HOC OBSERVER. THE COMMITTEE ON COOPERATION WITH NONMEMBERS WILL ALSO APPROVE THIS APPLICATION ON MAY 4, ABSENT OBJECTION BY ONE OR MORE MEMBER STATES.

18. (SBU) FROM THE POINT OF VIEW OF U.S. INTERESTS AT THE OECD, WE BELIEVE THAT CHINA'S OBJECTIONS TO A LONG-SETTLED OECD PRACTICE GO TOO FAR. STATEHOOD IS NOT A REQUIREMENT FOR COMMITTEE PARTICIPATION; INDEED, BEIJING HAS NOT CLAIMED THAT GRANTING AN OBSERVERSHIP IS TANTAMOUNT TO RECOGNITION OF A STATE, ONLY THAT TAIWAN HAS "POLITICAL" MOTIVATIONS. THOUGH WE WOULD REGRET A MOVE BY CHINA TO CURTAIL THE VALUABLE COOPERATIVE PROGRAM WITH THE OECD, WE WOULD REGRET EVEN MORE, AND BELIEVE IT IS NOT IN U.S. INTERESTS AS SEEN FROM HERE, PERMITTING CHINA (PARTICULARLY GIVEN ITS STATUS AS A NON-MEMBER) TO RAISE THE BAR FOR PARTICIPATION BY TAIWAN IN THE OECD. WE RECOMMEND APPROVAL OF TAIWAN'S APPLICATIONS FOR BOTH THE CSTP AND THE FISHERIES COMMITTEE ON MAY 4, AND SUBSEQUENTLY WHEN BOTH MATTERS COME UP FOR APPROVAL BY THE OECD'S GOVERNING COUNCIL.

MORELLA